

**AUG 05 2003**

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

CATHY A. CATTERSON  
U.S. COURT OF APPEALS

KATHLEEN KLAR,

Plaintiff - Appellant,

v.

SAFEWAY INC., Delaware corporation,

Defendant - Appellee.

No. 01-35772

D.C. No. CV-00-00100-DCA

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Oregon  
Donald C. Ashmanskas, Magistrate, Presiding

Argued and Submitted July 8, 2003  
Portland, Oregon

Before: SCHROEDER, Chief Judge, GOODWIN and BERZON, Circuit Judges.

Kathleen Klar appeals from the grant of summary judgment in favor of Safeway, Inc., in her action under Oregon law for wrongful constructive discharge. To prevail she must show that her working conditions were objectively intolerable,

---

\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as may be provided by Ninth Circuit Rule 36-3.

and that a reasonable person would have resigned on their account. McGanty v. Staudenraus, 901 P.2d 841, 856-57 (Or. 1995). Klar received a favorable evaluation and resigned on the basis of a single, isolated incident. We agree with the reasoning of the district court that Klar was not constructively discharged, and we therefore affirm the grant of summary judgment.

AFFIRMED